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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,096	08/26/2003	Douglas R. Dean	205332-9014	5895
1131	7590	02/08/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH LLC 401 NORTH MICHIGAN AVENUE SUITE 1900 CHICAGO, IL 60611-4212			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/650,096

Applicant(s)

DEAN ET AL.

Examiner

Amy J. Sterling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 30-35 is/are allowed.
6) ☒ Claim(s) 1,2,7-15,17,18,23-29,36 and 42 is/are rejected.
7) ☒ Claim(s) 3-6,16,19-22 and 37-41 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This is the Second Non-Final Action for application number 10/650,096 Pole Connector Assembly and Method for Racks and Shelving, filed on 8/26/03. Claims 1-42 are pending. This non-final action is in response to applicant's reply dated 11/23/04. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Double Patenting

The double patenting rejection over claims 1, 2, 4-7, 11-14, 18-20 and 22 to U.S. Patent 6,626,605 has been withdrawn, in view of the amendments filed on 11/23/04, which render the claims of the present application narrower than the claims as presented by the Patent 6,626,605.

Claim Rejections - 35 USC § 102

Claims 1, 2, 7-15, 17, 18, 23, 36 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by United Kingdom Patent No. 591, 253 to Garbe.

The patent to Garbe teaches a pole connector having an insert (6) having a one-piece unitary body, dimensioned to be received and engage an internal wall of an end of a first pole section (1) and an aperture defined in the body, and at least four projections (7) being deflectable with respect to the remainder of the insert body (See Col. 2 lines 58-62), and a U-shaped fastener (3, 5) having a first end (5) insertable into the aperture of the insert without appreciable deflection of the projection, if so desired.

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Garbe also teaches that the fastener has at least one collar portion with a surface (3) positioned to contact the insert and to block removal of the insert from the first pole section and a second end coupled to the second pole section (1) in a press fit and frictional manner, if so desired.

Garbe also teaches the method of inserting a first insert (6) into an end of a first pole section (1), the insert having at least one inwardly deflectable projection (7), inserting a fastener (3,5) into an aperture in the first insert, limiting inward defection of the projection with the fastener and coupling the fastener to a second pole section (1) with the same method steps.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 24-29 are rejected under 35 U.S.C. 102(e) as being anticipated United States Patent No. 6511099 to Bartholoma et al.

The patent to Bartholoma et al. teaches an assembly having an insert (5) dimensioned to be received within a first pole section (11), if so desired, the insert (5) having a body portion (7) and an aperture defined in the body portion (7) and a resiliently deformable u-shaped fastener (9, 10), having at least one deflectable

projection (10) having an outwardly protruding enlarged end which could be resiliently engageable or connectable to an internal wall of the insert.

Response to Arguments

The applicant has argued that the Garbe reference does not show the limitation of the of part of the fastener contacting the insert and blocking or inhibiting the movement of the insert. (See Remarks dated 11/23/04, page 12, lines 1-13). This is unpersuasive in that the collar (3) contacts the end edge of the insert and blocks or inhibits the insert from falling out of the tube.

Allowable Subject Matter

Claims 3-6, 16, 19-22 and 37-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The reason is that the prior art does not teach that the fastener is deformable or the method of inserting the fastener and deflecting the projection of the fastener, the at least one projection being deflectable from the base of the fastener and including a tongue and groove connection and wherein the body portion of the insert includes at least ten projections.

Claims 30-35 are allowed.

The reason is that the prior art does not teach a fastener having opposite ends received within apertures of first and second inserts which have a base, a deflectable

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projection extending from the base and an aperture defined in the base, the fastener having a base with at least one deflectable projection extending from the base, in combination with a first and second pole section and the first and second inserts received within the pole sections.

Conclusion

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-305-3597 or 703-305-3598 (formal amendments) or 703-308-3519 (informal amendments/communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



Amy J. Sterling
2/4/05